

**Remarks**

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The non-final Office Action dated February 17, 2004, indicated that claims 1 and 2 are rejected under 35 U.S.C. § 103(a) over *Johnson et al.* (U.S. Patent No. 6,278,809) and *Pollak et al.* (U.S. Patent No. 5,270,797); and claims 3-8 are rejected under 35 U.S.C. § 103(a) over *Johnson et al.* and *Pollak* and further in view of *Sanada* (U.S. Patent No. 5,985,357).

Applicant respectfully traverses the Section 103(a) rejections, both of which rely on the ‘809 reference, because the Office Action fails to present a combination of references that corresponds to the claimed invention. For example, the ‘809 reference fails to correspond generally to any of the three subparagraphs of claim 1.

With respect to the first subparagraph, the ‘809 reference fails to disclose using a plurality of illumination intensities as claimed. This is explicitly acknowledged in the Office Action at page 2.

The ‘809 reference fails to discuss any determination of a reflectivity of the substrate based on an illumination adjustment on a substrate as claimed in subparagraph two. The ‘809 abstract and, for example, claim 1, describe how the optical fiber reflectometer is used to monitor film growth via the light reflected off the film grown on the optical fiber. The reflectivity measurements are restricted to light reflected from the optical fiber tip, thus any reflectivity determination is based on the fiber tip and not on reflectivity from the substrate.

With respect to the third subparagraph, the ‘809 reference also fails to teach controlling dispensation of material as a function of the claimed adjusted illumination. The illumination is adjusted on the substrate to determine a reflectivity of the substrate, which, as discussed above, is not taught by the ‘809 reference. Thus, the ‘809 reference does not teach any controlling as a function of the claimed illumination. Without a presentation of correspondence to each of the claimed limitations, the Section 103(a) rejections are improper. Applicant accordingly requests that the rejections be withdrawn.

The Office Action fails to overcome the above deficiencies through the proposed modifications of the ‘809 reference with the ‘797 teachings because no modifications were

proposed to correspond to claim limitations absent in the ‘809 reference. The Office Action fails to assert any portions of the ‘797 reference that would, when combined with the ‘809 reference, correspond to the claimed determination of a reflectivity of the substrate based on an illumination adjustment on a substrate. Thus, the proposed combination fails to correspond to each of the claimed limitations and is improper. Applicant accordingly requests that the rejections be withdrawn.

Moreover, Applicant fails to recognize any motivation for the skilled artisan to modify the ‘809 reference with the ‘797 cited teachings. First, the ‘809 reference fails to correspond to any of the three subparagraphs of claim 1. Therefore, a skilled artisan would undergo a meaningless endeavor because combining these cited teachings would not result in correspondence to the claimed invention. Second, and aside from the claimed invention, the Office Action alleges that combining the cited teachings as asserted would be for the purpose of achieving advantages corresponding to the claimed invention. However, because these combined teachings would render a deficient embodiment, these same advantages would not be realized. Without a presentation of evidence of motivation in the combined references, the Section 103(a) rejections are improper and should be withdrawn. MPEP § 2143.01.

Notwithstanding the proposed combination’s failure to correspond to the claimed invention, the proposed combination of the ‘809 reference with the ‘797 teachings is also improper because the combination of the cited references would frustrate the operation of the ‘809 reference. The MPEP states that when a proposed modification would render the teachings being modified unsatisfactory for their intended operation, then there is no suggestion or motivation to make the proposed modification under 35 U.S.C. § 103(a). *See*, MPEP § 2143.01. The ‘809 reference uses two light sources to monitor film growth via reflectivity in an optical fiber. The Office Action proposes modifying the ‘809 system to include multiple illumination intensities on a substrate. Illuminating the ‘809 substrate as proposed by the Office Action would result in increased reflected light in the ‘809 deposition chamber thereby interfering with the light reflected in the optical fiber. The detector would not be able to ascertain the source of the reflections and the results would be unreadable. To propose modifying the ‘809 reference in such a manner would

destroy the operation of the '809 method and is untenable. Thus, Applicant requests that the rejections be withdrawn.

Applicant notes with respect to paragraph 6 of the Office Action that by way of the Declaration under 37 C.F.R. § 1.131, Applicant has established that invention occurred before October 6, 1999, but is not necessarily limited to a particular day.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Mr. Peter Zawilski, of Philips Corporation at (408) 474-9063.

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